

STATE OF VERMONT BOARD OF MEDICAL PRACTICE

In re: James A. Most, M.D.

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Docket No. MPN 94-0902

AMENDMENT TO STIPULATION AND CONSENT ORDER

NOW COME James A. Most, M.D. (Respondent) and the State of Vermont, by and through Attorney General William H. Sorrell and Assistant Attorney General James S. Arisman, and agree and stipulate as follows:

1. James A. Most, M.D., Respondent, holds Vermont Medical License Number 042-0010395, issued on May 2, 2002.

2. Jurisdiction vests with the Vermont Board of Medical Practice (Board), pursuant to 26 V.S.A. §§ 1353, 1354, & 1398 and 3 V.S.A. §§ 809 & 814(c).

3. By Stipulation and Consent Order dated February 5, 2003 (hereinafter, the "February 5, 2003 agreement", attached hereto as Exhibit 1), Respondent agreed to entry of a Board order imposing terms and conditions upon his license to practice medicine in the State of Vermont. These provisions included referral of his name to the Vermont Practitioner Health Program (VPHP), his abstinence from alcohol, and twice-weekly collection and testing of breath, hair, urine, or other samples. See Paragraphs 24 and 25 of the February 5, 2003 agreement.

4. Respondent has complied during the past year with all required terms of Paragraphs 24 and 25 with regard to collection and testing. All test results have been negative for alcohol use and the use other prohibited substances. Respondent's recovery efforts appear to have been pursued with reasonable and sustained progress. As provided by Paragraph 25 of the

February 5, 2003 agreement, Respondent has requested that the frequency of collection and testing be reduced.

5. The undersigned Assistant Attorney General has conferred with the medical director of the VPHP program and the members of the Board's North Investigative Committee, to which this matter is assigned. All concur that the frequency of Dr. Most's required collection and testing may be reduced with reasonable safety.

6. If approved by the Board of Medical Practice, the following amendment of the February 5, 2003 agreement shall be entered and ordered. The first sentence of Paragraph 24 of that agreement shall be revised to read as follows, "Respondent agrees that he shall provide breath, hair, urine samples, or other samples for collection and testing at least five times per month unless this condition is further modified at a later date." In addition, the following three sentences shall be inserted immediately after the final sentence of the current language of Paragraph 24, "The parties agree that one year after the effective date of amendment of the February 5, 2003 agreement, Respondent again may petition the Board with regard to the required frequency of sample collection and testing. Respondent acknowledges and agrees that any subsequent decision by the Board as to a petition from him regarding the frequency of sample collection and testing shall be determined by the Board in its sole discretion. See February 5, 2003 agreement, Paragraph 26." All other provisions and terms of the February 5, 2003 Stipulation and Consent Order shall remain unchanged and in force.

7. Respondent reiterates here that he understands and agrees that the instant reduction in the frequency of collection and testing is subject to the terms of the first sentence of Paragraph 25 of the February 5, 2003 agreement. To wit, "Should circumstances warrant, the Board may require an increase in the frequency of such sample collections or direct that collections occur on certain occasions or at certain locations."

8. Respondent acknowledges that he is knowingly and voluntarily agreeing to this amendment of his present Stipulation and Consent Order with the Board of Medical Practice. Respondent has had advice of counsel and representation with regard to this agreement and fully satisfied with such counsel and representation.

9. Respondent agrees to continue to be bound by all terms and conditions of the Stipulation and Consent Order of February 5, 2003, as amended. Respondent agrees that the Board of Medical Practice shall retain jurisdiction to enforce all terms and conditions of such amended Stipulation and Consent Order. Respondent expressly agrees that any failure by him to comply with the terms of the amended Stipulation and Consent Order may be subject to the provisions of 26 V.S.A. §1354(25) and may subject Respondent to such action as the Board may deem appropriate under the circumstances.

10. The parties agree that this amendment to the Stipulation and Consent Order shall be a public document, will be made part of Respondent's licensing file, and may be reported to other licensing authorities.

11. This Stipulation and Consent Order is subject to review and acceptance by the Vermont Board of Medical Practice. If the Board rejects any part of this Stipulation and Consent Order, the instant agreement shall be considered void. However, should the terms of amendment be deemed acceptable, the parties request that the Board enter an order amending Respondent's current Stipulation and Consent Order, as described in Paragraph 6, above, and that Respondent's medical license be subject to the amended terms and conditions set forth herein.

Dated at Montpelier, Vermont, this 30th day of March 2004.

WILLIAM H. SORRELL
ATTORNEY GENERAL

by:

James S. Arisman
JAMES S. ARISMAN
Assistant Attorney General

Dated at Manchester, Vermont, this 29th day of March 2004.

James A. Most, M.D.
JAMES A. MOST, M.D.
Respondent

Dated at Berlington, Vermont, this 29th day of March 2004.

David F. Silver, Esq.
DAVID F. SILVER, ESQ.
Counsel for Respondent

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FOREGOING, AS TO JAMES A. MOST, M.D.
APPROVED AND ORDERED
VERMONT BOARD OF MEDICAL PRACTICE

Office of the
ATTORNEY
GENERAL
109 State Street
Montpelier, VT
05609

DATED: 4/7/04

ENTERED AND EFFECTIVE: April 7, 2004

VERMONT BOARD OF MEDICAL PRACTICE